

**THE UNITED REPUBLIC OF TANZANIA
MINISTRY OF ENERGY AND MINERALS**



**STANDARDIZED POWER PURCHASE AGREEMENT
FOR PURCHASE OF GRID-CONNECTED
CAPACITY AND ASSOCIATED ELECTRIC ENERGY**

BETWEEN

(The BUYER)

AND

(The Seller)

JUNE 2009

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CAPACITY AND ASSOCIATED ELECTRIC ENERGY**

BETWEEN

_____ (The Buyer)

And

_____ (The Seller)

This Standardized Power Purchase Agreement for the Purchase of Capacity and Associated Electric Energy (hereinafter "AGREEMENT") is entered into on the date signed below, by and between _____, with a registered office address of _____, Tanzania (hereinafter referred to as "the Buyer"), and _____, with a registered office address of _____, Tanzania, the owner of the Small Power Project identified above and described in Appendix B, (hereinafter referred to as "the Seller").

WHEREAS, it is the policy of the United Republic of Tanzania to encourage private sector Small Power Project development and production of power;

WHEREAS, it is the responsibility of the Ministry of Energy and Minerals (MEM) in administering the National Energy Policy, to facilitate Small Power Project development and power sale;

WHEREAS, the Authority has been empowered by the Energy and Water Utilities Regulatory Authority Act, Cap. 414 to approve wholesale power sale terms and tariffs, and has approved the form of this AGREEMENT for sales of power Small Power Projects;

WHEREAS, the Buyer has requirements to obtain additional electric capacity and associated electric energy, and has available transmission capacity to accept and utilize such capacity and associated energy;

WHEREAS, such capacity and associated electric energy can be supplied to the Buyer by the Seller, subject to the warranties and representations in this AGREEMENT;

WHEREAS, the Seller has submitted to the Buyer a proposal for sale of capacity and/or associated electric energy from a Small Power Project facility;

WHEREAS, the Seller's Small Power Project and tender for sale to the Buyer of capacity and/or associated electric energy qualifies as eligible under the Small Power Project program in Mainland Tanzania, and under which the Buyer is authorized by EWURA to enter binding agreements with owners or operators of Small Power Projects;

WHEREAS, the Seller is a company duly organized and validly existing under the laws of The United Republic of Tanzania, possesses all requisite corporate and legal authority to execute this AGREEMENT, and is permitted by applicable laws and regulations to sell independently produced power to the Buyer; and

WHEREAS, the Seller wishes to deliver and sell, and the Buyer wishes to purchase and to accept delivery of, the offered capacity and/or associated electric energy to be produced by the Seller from the Facility described in Appendix B, all pursuant to the terms and subject to the conditions as set forth in this AGREEMENT;

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein, the sufficiency of which are stipulated by the Parties, the Seller and the Buyer hereby agree as follows:

ARTICLE 1. DEFINITIONS

When used with initial capitalizations, whether in the singular or in the plural, the following terms shall have the following meanings:

- (a) Agreement: This document, including all Appendices, and all documents, laws, regulations, guidelines or standards incorporated by express reference herein, as such may be amended from time to time.
- (b) Appendix A: The standardized tariffs and escalators for purchase and sale of capacity and/or associated electric energy applicable to this AGREEMENT.
- (c) Appendix B: Description of the Seller's Facility.
- (d) Appendix C: Designation of Grid Interconnection Point and requirements.
- (e) Authority: The Energy and Water Utilities Regulatory Authority (EWURA), established by Section 4 of Cap. 414 of the Laws of The United Republic of Tanzania. The terms

“Authority” and “Regulator” may be used interchangeably.

(f) Commencement Date of Operation: The first day of the succeeding month following (1) the day on which the Seller notifies the Buyer that power deliveries can commence consistent with the terms of this AGREEMENT, or (2) the day on which the Seller commences deliveries of electric energy to any purchaser consistent with applicable law, including but not limited to, the Buyer.

(g) Contract Year: The twelve month period beginning with the Commencement Date of Operation and each succeeding twelve month period.

(h) Delivery Point: The point where the Buyer's transmission or distribution system connects with the power output of the Facility, and where the Seller's metering of power output initially takes place including those protection, metering, electric line(s), and other facilities required, in the opinion of the Buyer, to connect the electric systems of the Buyer and the Seller. The terms “Delivery Point” and “Point of Supply” may be used interchangeably.

(i) Due Date: Thirty (30) days after the last day of each month during the term of this AGREEMENT.

(j) Emergency: A condition or situation which is likely to result in disruption of service to the Buyer's customers, is likely to cause a major fault in the Buyer's transmission system, or is likely to endanger life or property.

(k) Event of Default: An event as defined in Article 3(b).

(l) Facility: All of the Seller's electrical prime movers and generators, together with all protective and other associated or auxiliary equipment of the Seller, and rights to own or use land associated with the electrical prime movers and generators, necessary to produce capacity and/or associated electric energy pursuant to this AGREEMENT.

(m) Good Utility Practice: Those practices, methods and acts with regard to adequate materials, resources, supplies, fuel, personnel, maintenance, repairs, monitoring, testing, and operation in the international utility industry at a particular time, in the exercise of reasonable judgment based on the facts known or that should have been known at the time of a decision, that would have been expected to accomplish the desired result in a manner consistent with the law, regulations, codes, equipment manufacturers' recommendations, safety, law, environmental protection and economy.

(n) Interconnection Guidelines: The Buyer interconnection standards and requirements on grid connection relevant to a Small Power Project facility interconnection to the Buyer's transmission or distribution grid, as stated in Appendix C.

(o) Interconnection Point: The point where the Seller's electric output line or electric system

feeds into the electric system of the Buyer. The terms “Interconnection Point” and “Point of Common Coupling” may be used interchangeably.

(p) Law: All principal laws, treaties, proclamations, regulations, rules and by-laws that are customarily treated in the United Republic of Tanzania as having legally binding force.

(q) Must Take Facility: A Must Take Facility shall mean a Facility where the Buyer must take and purchase all of the net electric energy output, not exceeding the dependable annual capacity, to be generated by the Facility and delivered and sold to the Buyer, subject only to such necessary directions or protocols as may be issued by the Buyer for the protection of its electric system.

(r) Party or Parties: The Seller or the Buyer, or both, and their successors in interest to any or all of the rights and obligations hereunder.

(s) Prime Rate: That rate as announced by the Bank of Tanzania during the relevant period.

(t) Regulator: The Energy and Water Utilities Regulatory Authority, established by by Section 4 of Cap. 414 of the Laws of The United Republic of Tanzania. The terms “Authority” and “Regulator” may be used interchangeably.

(u) Scheduled Outage: An outage at the Facility which is scheduled in advance for the purpose of performing maintenance on the Facility.

(v) Small Power Project: A project of any capacity that generates electric energy and sells pursuant to this AGREEMENT up to ten (10) MW of such output, or is otherwise deemed eligible for executing this AGREEMENT.

(w) Buyer's Entitlement: The Facility's electric energy, not to exceed the maximum dependable load-carrying ability of the Facility exclusive of energy required for Facility use, expressed in kilowatts, agreed herein to be committed herein by Seller for sale and delivery to the Buyer, as set forth in Appendix B.

(x) Unscheduled Outage: An outage at the Facility which is not a Scheduled Outage.

ARTICLE 2. DELIVERY, SALE, AND PURCHASE OF THE BUYER'S ENTITLEMENT

(a) Delivery of Entitlement. Upon the Commencement Date of Operation and thereafter the Seller agrees to deliver and sell to the Buyer for the term of this AGREEMENT as specified in Article 3 and at the price as specified in Article 5, the Buyer's Entitlement.

(b) Acceptance and Purchase of Entitlement. Upon the Commencement Date of Operation and thereafter, the Buyer agrees and covenants to accept into its transmission system and to purchase for the term of this AGREEMENT as specified in Article 3 and at the price as specified in Article 5, the Buyer's Entitlement when delivered by Seller.

(c) Environmental Attributes. Any environmental attributes recognized under any international, national or other laws or regulations, associated with the ownership or generation of power from the Facility, including but not limited to carbon credits or attributes created pursuant to the Kyoto Protocol or any successor laws, are not included in the Entitlement transferred to the Buyer and shall remain the property, and under the control, of the Seller.

(d) Operation of Facility. The Seller agrees to operate the Facility to the maximum extent feasible consistent with the recommendations of equipment manufactures and Good Utility Practice. The Buyer shall not assert the Seller's liability for, and the Seller shall not be liable to the Buyer for, any direct damages resulting from the Seller's inadvertent or accidental failure to deliver the Buyer's Entitlement, unless the Seller is grossly negligent. Unless specifically allowed pursuant to this AGREEMENT, where without the Buyer's prior written approval the Seller deliberately reduces the Buyer's Entitlement for the purpose of selling or attempting to sell capacity and associated electric energy to any third party, or for the purpose of producing any other form of energy capable of being produced at the Facility in lieu of the Seller's Entitlement, said limitation of the Seller's liability shall not apply.

(e) Forecasts. Prior to the Commencement Date of Operation and thereafter on or before each subsequent Contract Year, the Seller shall furnish to the Buyer a two (2) year forecast of its anticipated operations that includes the following: (1) anticipated monthly generation availability, and (2) Scheduled Outages for each year; provided, however, the Seller shall have no liability to the Buyer and shall be subject to no liability, reduced payment, or penalty in the event that the actual amount of capacity and associated electric energy delivered to the Buyer, or the times of said delivery, differ from the amounts or times shown in said forecasts. Notwithstanding this provision, the Seller may not divert the Buyer's Entitlement without the prior written consent of the Buyer. The Seller shall revise its Scheduled Outages and notify the Buyer if such plans change.

(f) Scheduled Outages. The Seller shall attempt to coordinate any Scheduled Outage, subject to Good Utility Practice, with the Buyer's reasonable written request. The Seller shall notify the Buyer one month in advance of Scheduled Outages, including a non-binding estimate of expected length of each outage, and as soon as possible, of any Unscheduled Outages, including a non-binding estimate of expected length of each outage.

(g) Transmission System Operation. The Buyer shall operate and maintain its transmission system and the Facility interconnection in accordance with Good Utility Practice so as to permit the delivery to the Buyer's system of the Buyer's Entitlement. The Buyer shall work with the Seller to balance load and support voltage on its transmission and distribution system so

as to maximize the ability of the Buyer's transmission system to accept and purchase the Buyer's Entitlement.

(h) Interruption of Acceptance and Purchase. Notwithstanding that the Seller's Facility is a Must Take Facility, the Buyer shall not be obligated to purchase or take delivery of the Buyer's Entitlement if the Facility is not operated and maintained in a manner consistent with Good Utility Practice in accordance with Article 4. The Buyer may interrupt, reduce or cease to purchase and accept delivery of all or a portion of the Buyer's Entitlement, to the extent that such interruption, reduction or cessation is necessary, under Good Utility Practice, in order for the Buyer to install equipment, make repairs, replacements, investigations or inspections of the Buyer's electric system. Notwithstanding that the Seller's Facility is a Must Take Facility, whenever the Buyer's system or the systems with which it is directly interconnected experience an Emergency, or whenever it is necessary to aid in the restoration of service on the Buyer's system or on the systems with which it is directly or indirectly interconnected, the Buyer may, in its sole discretion, curtail or interrupt the taking of all or a portion of the Buyer's Entitlement or any electric energy hereunder, provided such curtailment or interruption shall continue only for so long as it is reasonably and minimally necessary under Good Utility Practice.

(i) Interruption of Delivery. The Seller may interrupt, reduce or cease to deliver the Buyer's Entitlement only to the extent that the Seller reasonably determines that such interruption, reduction, or cessation is necessary in order to install equipment in, make repairs, replacements, investigations and inspections of, or perform maintenance on the Facility which directly affect, the delivery of the Buyer's Entitlement. The Seller shall, prior to initiating any interruption, reduction or refusal to deliver the Buyer's Entitlement, use its best efforts to provide the Buyer a minimum of twenty-four (24) hours advance notice, such notice to include an explanation of the cause of the interruption, and an estimate of the start and duration of the interruption.

(j) Coordination. Because the Seller's Facility is a Must Take Facility, the Buyer shall use its best efforts to coordinate and to minimize any periods of interruption, reduction, cessation, or curtailment of acceptance of capacity or electric energy from Seller as provided for in this Article with the periods of previous Scheduled Outage at the Facility. Prior to initiating any interruption, reduction or cessation of the Buyer's Entitlement, the Buyer shall use its best efforts to provide the Seller with a minimum of twenty-four (24) hours advance notice, such notice to include an explanation of the cause of the interruption, and an estimate of the start and duration of the interruption.

(k) Power Factor. The Seller agrees to operate the Facility in parallel with the Buyer's system and to deliver the Buyer's Entitlement at the Delivery Point and at the voltage level and power factor specified in Appendix C, which the Buyer may establish on a project-specific basis to parallel its system requirements to provide ancillary services. Unless otherwise requested by the Buyer, the Seller's Facility must be capable of operating at a power factor of 0.8 lagging, and the Seller shall operate the Facility at a power factor between 0.8 and 1.0 at the point of delivery to the Buyer, subject to the response time of control equipment to transient conditions on the

Buyer's system.

(l) Synchronization. The Seller shall notify in writing the Buyer at least 30 days prior to synchronizing or operating the Seller's generators at the Facility for the first time in parallel with the Buyer grid system, and coordinate such commencement of operation with the Buyer at this first time and at future times that it resynchronizes or begins again to operate after a cessation of operation in parallel with the Buyer grid.

(m) Standards. The Seller shall comply with all applicable Standards as approved by the Authority.

ARTICLE 3. TERM; DEFAULT; TERMINATION; MILESTONE

(a) Term. As of the date and when signed below by all Parties, the Seller has elected, and the Buyer agrees, that this AGREEMENT shall commence and, subject to the termination provisions set forth in this AGREEMENT, shall continue for the term of fifteen (15) years measured from the Commencement Date of Operation. Notwithstanding the foregoing, the applicable provisions of this AGREEMENT shall remain in effect after termination hereof to the extent necessary to provide for final billings, billing adjustments, payments, and effectuation of all rights hereunder.

(b) Default. A Party shall be deemed to be in default under this AGREEMENT if it experiences each or any of the Events of Default, including:

(1) The Seller fails to complete, abandons, or cancels construction of the Facility, or does not achieve the Commencement Date of Operation as provided in Article 3(e), in which case the Seller shall be deemed to be the Party in default hereunder, unless such failure is attributable primarily to the failure of the Government of The United Republic of Tanzania or instrumentalities of the Government of The United Republic of Tanzania to issue necessary permits to the Facility.

(2) The adjudged bankruptcy, dissolution, or liquidation of either Party, in which case the bankrupt, dissolved, or liquidated Party shall be deemed to be the Party in default hereunder.

(3) Either Party fails to perform or observe any of the covenants, terms, conditions, or provisions of this AGREEMENT and the appendices hereto, and such failure shall not be rectified or cured within sixty (60) days after written notice thereof to the nonperforming Party, provided, however, that if such failure cannot reasonably be cured within such sixty (60) day period, such further period,

not to exceed one (1) year after written notice thereof, as reasonably shall be required to effect such cure, provided that the defaulting Party commences within such sixty (60) day period reasonably to effect such cure and at all times thereafter proceeds diligently to complete such cure as quickly as possible, subject to the provisions of Article 6. It shall not be an Event of Default if such failure of a Party to perform is proximately caused by an action or inaction of the other Party.

(4) Without reasonable excuse, the failure of any Party to make an undisputed payment when due and nonpayment continues for more than ninety (90) days.

(5) The compulsory expropriation, acquisition or nationalization of the material assets or equity of the Seller or the Facility by the Government of The United Republic of Tanzania.

(6) The dissolution or reorganization of the Buyer such that he or his successor cannot perform his obligations hereunder, either of which shall be deemed to be an Event of Default by the Seller.

(7) Either Party contests and denies the enforceability of this AGREEMENT, in which case the Party contesting enforceability shall be deemed to be the Party in default hereunder.

(c) Default Procedure and Cure.

(1) Notice. Upon the occurrence of an Event of Default, in each and every case, the non-defaulting Party shall give written notice to the defaulting Party and may pursue any remedies provided for in this AGREEMENT or under law, and may terminate this AGREEMENT by giving such written notice to the other Party; provided that should the Buyer claim any Event of Default against the Seller, it shall notify and afford Lenders reasonable time, access and opportunity to remedy or cure any event giving rise to the default, and shall cooperate with Lenders to this end.

(2) Step In Rights. If an Event of Default or Emergency occurs and the Party experiencing such Event of Default or Emergency is prevented temporarily from satisfying its obligations hereunder despite its best efforts, including but not limited to restoring the operation of the Facility or the Buyer grid, the Party experiencing the Event of Default or Emergency or the other Party may elect to provide notice to all Parties as provided herein, of their intention to step in to the rights and obligations of the Party experiencing the Event of Default and attempt during a reasonable time to remedy such Event of Default or Emergency (hereinafter "Step In Rights"). The other Party shall only exercise such Step In Rights under this Article if it has the skills and means to carry out the work necessary to remedy the Event of Default or Emergency in accordance with the laws of the Republic of Tanzania and Good Utility Practice.

(3) Step In Costs. The indemnity provisions of this AGREEMENT shall apply to the exercise of any such Step In Rights, provided that a Party exercising such Step In Rights shall be indemnified by the Party experiencing the Event of Default or Emergency for all reasonably incurred expenses that benefit the Party experiencing the Event of Default or Emergency or its assets, and shall be indemnified and held harmless by the Party experiencing the Event of Default from and against all claims of whatever nature lodged against such Party arising out of or associated with reasonable actions consistent with Good Utility Practice to cure or remedy such Event of Default or Emergency. Those exercising such Step In Rights shall as soon as possible return control of operations of any facilities over which it has assumed control or operation to the Party experiencing the Event of Default. The Party exercising such Step In Rights shall maintain and produce records of costs incurred to attempt to remedy or cure the Event of Default or Emergency, and the Party experiencing the Event of Default shall reimburse such reasonable and documented expenses incurred by the other Party.

(d) Specific Performance. If money damages would not be a sufficient remedy in the event of default or breach of this AGREEMENT, each Party acknowledges that the Party not in breach shall be entitled to specific performance, including, without limitation, injunction and specific performance, to remedy such breach or threatened breach, and that such remedy shall not be deemed the exclusive remedy for breach hereunder.

(e) Milestone. The Commencement Date of Operation shall be within two (2) years from the date of this AGREEMENT. The Seller is required to submit quarterly progress reports to the Buyer indicating progress towards this Milestone. If the Seller does not achieve Commencement Date of Operation within two (2) years, this AGREEMENT shall be null and void unless both parties agree to an extension for the explicit purpose of completing the construction, testing and commissioning the Facility, subject to the approval of the Authority.

ARTICLE 4. INTERCONNECTION; METERING; OPERATION

(a) Delivery Point Responsibility. The Seller shall make all arrangements at its own expense necessary to transmit and deliver the Buyer's Entitlement to the Buyer at the Delivery Point. The Buyer shall cooperate with the Seller in these arrangements.

(b) Interconnection. The Seller at its sole expense shall design, purchase, construct, operate and maintain the Seller-owned interconnection facilities, and where metering is located at the Buyer substation, shall pay for upgrading of metering at the grid substation to monitor bi-directional real and reactive power on the transmission line to which the Facility interconnects. The Buyer shall have the right to review the design as to the adequacy of the protective apparatus

provided. The Seller shall be notified of the results of such review by the Buyer in writing within thirty (30) days of the Buyer's receipt of all specifications related to the proposed design. Any flaws perceived by the Buyer in the proposed design shall be described in the written notice. Any additions or modifications required by the Buyer shall be incorporated by the Seller.

(c) Interconnection Standards. The Buyer equipment, transmission, and distribution requirements and standards, including the Interconnection Guidelines, shall apply to the installation and to the operation of all of the Seller's equipment and to the interconnection.

(d) Interconnection Compliance. Upon reasonable prior notice, the Buyer has the right to inspect the Seller's interconnection equipment to ensure compliance with Good Utility Practice and the Interconnection Guidelines. Such access shall not interfere with the Seller's normal business operations. If, in the opinion of the Buyer, the Seller's interconnection equipment is not being so operated and maintained, the Buyer shall notify the Seller of any such discrepancies which the Seller shall correct promptly. Until such correction, the Buyer is not required to accept and pay for the Buyer's Entitlement.

(e) Induction Generators. If the Seller's Facility includes an induction-type generator(s), the Seller shall provide individual power factor correction capacitors for each such generator. Such capacitors shall be switched on and off simultaneously with each of the associated induction-type generator(s) of the Facility. The kVAr rating of such capacitors shall be the highest standard value which will not exceed such generators' no-load kVAr requirement. The Seller shall pay the Buyer, at prevailing rates approved by the Authority, the cost for all energy consumed from the Buyer to excite the induction generators, unless such energy is netted from that sold hereunder. Such payment shall be made as provided in Article 5.

(f) Metering. The Buyer shall own and maintain the primary metering equipment employed for purposes of measurement and billing under this AGREEMENT. Metering and telemetering equipment shall comply with all the Buyer standards and guidelines, be capable of registering and recording the instantaneous and bidirectional transfer of active and reactive power, kWh and kVArh, and capable of transmitting such data to such location(s) as may be specified by the Buyer. The metering equipment shall be sealable and have mass storage and recording capability. The Seller shall provide a suitable location for the metering and telemetering equipment if the Interconnection Point is at the Facility.

(g) Meter Reading. The Buyer shall read the meters at the end of each month. The Seller shall provide the Buyer access to the Facility at all reasonable times upon reasonable prior notice for the purpose of reading or inspecting meters, examining the operation of the Facility or other purposes reasonably related to performance under the terms of this AGREEMENT. Such access shall not interfere with the Seller's normal business operations. All the Buyer's personnel shall follow all Facility safety and procedural rules while on the Facility premises.

(h) Meter Accuracy. All metering equipment measuring the output of the Facility shall be tested at least annually, at the Buyer's expense, in accordance with Good Utility Practice. At

any reasonable time, either Party may request a test of the accuracy of any metering equipment. Each Party shall bear the cost of a test requested by it. The results of meter calibrations or tests shall be available for examination by the Parties at all reasonable times. If, at any time, any metering equipment is found to be inaccurate by more than one-half of one percent (0.5%), The Buyer shall cause such metering equipment to be made accurate or replaced as soon as possible. Each Party shall be given reasonable advance notice of and have the right to be present at the breaking of the seals, testing, calibration and sealing of meters. If either Party believes that there has been a meter failure or stoppage, it shall immediately notify the other Party. The Party owning the meters will then investigate and take corrective action if necessary.

(i) Meter Calibration. Testing and calibration of meters, and any verification of meter accuracy, shall be performed pursuant to the Buyer metering standards. Calibration shall occur before use of the meters to first record the output of the Facility. All meters shall be caused to be sealed and locked by their owner after calibration.

(j) Transfer of Title to Power. At the Delivery Point, capacity and associated electric energy, and legal title to same, shall be deemed to be transferred from the Seller and delivered to possession of the Buyer. At such point, the Buyer shall be in exclusive control and possession of such capacity and associated electric energy and shall be solely responsible for same. Such electric energy transferred shall be by alternating current 3 phase, 50 Hz nominal frequency, at the voltage specified in Appendix C.

(k) Operation. The Facility shall be operated by the Seller in a manner consistent with Good Utility Practice and proper safety.

(l) Interconnection Liability. The Seller shall accept all liability and release the Buyer from and indemnify the Buyer against, any liability for faults or damage to the Seller's interconnection facilities, the Buyer electric system and the public, as a result of the operation of the Seller's interconnection equipment.

(m) Data. Each Party shall annually report to the Authority and the Working Group on Small Power Development, a summary of power sale, operating and outage data by month for the calendar year, to allow the Authority to monitor Facility performance.

ARTICLE 5. BILLING AND PAYMENT

(a) Billing. The Buyer shall read its Facility meters on the final day of each month for determination of the capacity and associated electric energy delivered to and accepted by the Buyer under the terms of this AGREEMENT during such month, shall record such reading(s), and shall supply the results of such meter readings (including time and date of the reading) in written form to Seller within fifteen (15) days following each such reading.

(b) **Payment.** The Buyer shall pay the Seller (or a trustee if so designated by the Seller) any and all amounts due for the delivered Buyer Entitlement that are not in good faith disputed by the Buyer, on or before the Due Date, pursuant to the rates and subject to the terms set forth in Appendix A, which governs the applicable rate, determined on a per kWh delivered quantity, for payment for all power delivered under this AGREEMENT. Any undisputed amounts unpaid after the Due Date shall bear interest payable to the Seller by the Buyer at the Prime Rate compounded on a monthly basis for each month or part thereof after the Due Date that any such amount remains unpaid. Either party in good faith may dispute any claimed delivery or billing error, amount, or payment by written notification to the other Party within one (1) year of receipt of a meter reading or other alternative billing information pursuant to subpart (d) of this section, whether or not payment has been made by the Buyer. If dispute resolution pursuant to subpart (d) of this section is in favor of the Seller, the Buyer shall promptly thereafter pay the disputed amount plus interest computed at the Prime Rate to the Seller, compounded monthly, from the Due Date to the date payment is made. If resolution is in favor of the Buyer, the Seller shall refund any payment previously received of the disputed amount plus interest at the Prime Rate, compounded monthly, from the original Due Date to the date the refund is made. All such payments pursuant to this section shall be due within fifteen (15) days of the date of the final decision of such dispute resolution pursuant to subpart (d) of this section.

(c) **Estimation.** In the event that any data required for the purpose of determining amounts owed to the Seller or payment hereunder are unavailable when required, such unavailable data shall be estimated by the Buyer, subject to any required adjustment based upon actual data in the next subsequent payment month. A failure of the Buyer to read its meter pursuant to subpart (a) of this section shall not relieve the Buyer of the obligation to pay the Seller at the conclusion of each month for the power delivered and accepted as provided herein.

(d) **Alternative Meter Data.** To determine the amount of the Buyer's Entitlement delivered and accepted in any billing period, recordation of amounts, billing, and payment will be based on the first available of the following metering or estimation options, in descending order of applicability:

- (1) The primary Facility meter measurement(s) when that meter for the period at issue satisfies the accuracy standard in Article 4(i); or
- (2) The Facility's secondary meter measurement when that secondary meter is positioned to record the electric energy delivered and accepted, and when that meter satisfies the accuracy standard in Article 4(i);
- (3) Where all meters fail to accurately register capacity and associated electric energy delivered and accepted, the average monthly data for the Facility from the same month in the prior Contract Year, if available, as reasonably adjusted for the particular billing period by any relevant available data affecting Facility generation regarding rainfall, stream flow, actual Facility fuel consumption,

average heat rate, hours of operation, time of operation of generators, and/or native self-use of power output (collectively "Operating Variations") during the period of meter failure, shall be employed, if applicable, to estimate the amount of electric energy delivered and accepted. Where such data are not reliably available, the average monthly Facility capacity and associated electric energy delivered and accepted during the previous six (6) billing periods prior to meter failure (or fewer months if the Facility is less than six months from the Commencement Date of Operation), as adjusted or normalized for outages or Operating Variations, shall be used to estimate energy delivered by the Facility for the billing period.

(e) Set Off of Amounts Owed. Either Party may set off undisputed amounts owed by it to the other Party regarding the Facility against undisputed amounts owed by the other Party to it regarding the Facility under this AGREEMENT.

ARTICLE 6. FORCE MAJEURE

(a) Force Majeure. For purposes of this AGREEMENT, the term "Force Majeure" shall mean any event, including but not limited to the following events, not within the reasonable control and not due to the failure, negligence or persistent disregard, of the Party whose performance is adversely affected or becomes impracticable, and who chooses to invoke Force Majeure:

- (1) Any Act of God, fire, explosion, excessive rains, flood, tidal wave, epidemic, or earthquake;
- (2) Any other cause, whether or not similar thereto, beyond the reasonable control of, and without the fault or negligence of, the Party claiming Force Majeure;
- (3) Civil disturbance, insurrection, rebellion, hostilities, public disorder or public disobedience, sabotage, riot, embargo, blockade, quarantine, labor dispute, strikes which are documented, acts of war or the public enemy whether or not war is declared;
- (4) Confiscation of the assets of the Seller or authority of the Buyer by any authority of the Government of The United Republic of Tanzania.

(b) Not Force Majeure Events. Any obligations of either Party which arose before the occurrence of the Force Majeure event causing non-performance shall not be excused as a result of the occurrence of a Force Majeure event. The late payment of money owed or the damage or disability resulting from a failure of a Party to utilize Good Utility Practice is not excused by

Force Majeure.

(c) Force Majeure Protocol. No default as a result of an event of Force Majeure shall occur, provided that the adversely affected non-performing Party invoking Force Majeure shall:

- (1) Provide prompt notice in writing to the other Party, Lenders, and the Authority of the occurrence of the Force Majeure event and the choice to invoke Force Majeure, giving an estimation of the event's expected duration and the probable impact on the performance of its obligations hereunder, and submitting good and satisfactory evidence of the existence of the Force Majeure event;
- (2) Exercise all reasonable efforts to continue to perform its obligations hereunder;
- (3) Expeditiously take or initiate action to correct or cure the Force Majeure and periodically submit good and satisfactory evidence that it is making all reasonable efforts to correct or cure the Force Majeure;
- (4) Exercise all reasonable efforts to mitigate or limit damages to the other Party, to the extent such action will not adversely affect its own interests; and
- (5) Provide prompt notice to the other Party, Lenders and the Authority of the cessation of the Force Majeure.

(d) Force Majeure Effect. If a Party is rendered wholly or partly unable to perform its duties and obligations under this AGREEMENT because of a Force Majeure event, that Party shall be temporarily excused to the extent necessary from whatever performance is affected by the Force Majeure event to the extent so affected.

(e) Force Majeure Duration. Notwithstanding the foregoing, if a Party is prevented from substantially performing its obligations under this AGREEMENT for a period of two (2) years due to the occurrence of a Force Majeure event, the other Party may elect to terminate the AGREEMENT by ninety (90) days written notice given any time thereafter to the nonperforming Party, unless substantial performance is resumed prior to the expiration of such ninety (90) day period; provided that the Buyer shall not elect to terminate the AGREEMENT under this part due to a Force Majeure event described in Article (6).

**ARTICLE 7. RELATIONSHIP OF PARTIES; LIMITATION OF LIABILITY;
INDEMNIFICATION**

(a) Immunity. Each party waives all immunity, sovereign or otherwise, and represents, warrants, and covenants, that it will not assert such immunity at law or at equity, or urge or allow others on its behalf to assert such immunity, which it may now or in the future enjoy or could claim, to the extent permitted by law.

(b) Third Party Beneficiaries. With the exception of Lenders, the Parties do not intend to create any rights in, or grant any remedies to, any third party beneficiary that may claim under this AGREEMENT.

(c) No Other Relationship. Nothing in this AGREEMENT shall be construed as creating any relationship between the Parties other than that of independent contractors for the sale and purchase of capacity and/or associated electric energy generated at the Facility. No agency relationship of any kind is created by this AGREEMENT.

(d) Limitation of Liability. Notwithstanding subpart (e) hereof or any other provision of this AGREEMENT to the contrary, neither the Buyer nor the Seller, nor their respective officers, directors, agents, employees, parent entity, Lenders, subsidiaries, or affiliates shall be liable or responsible to the other Party or its parent entities, subsidiaries, affiliates, officers, directors, agents, employees, successors or assigns, or their respective insurers, for incidental, exemplary, punitive, indirect or consequential damages of any nature, connected with or resulting from performance or non-performance of obligations pursuant to this AGREEMENT, including, without limitation, claims in the nature of lost revenues, income or profits (other than payments expressly required and properly due under this AGREEMENT).

(e) Indemnity. Each Party shall defend, indemnify and save the other Party, its officers, directors, agents, employees, harmless from and against any and all claims, liabilities, actions, demands, judgments, losses, costs, expenses (including reasonable attorney's fee), suits, actions, or damages arising by reason of bodily injury, death, or damage to property sustained by any person or entity (whether or not a Party to this AGREEMENT): (i) caused by or sustained on property or at facilities owned or controlled by the Party, except to the extent caused by an act of negligence or willful misconduct by an officer, director, subcontractor, agent, employee, parent entity, subsidiary, or affiliate of the other Party; or (ii) caused by an act of negligence or willful misconduct of the Party or by an officer, director, subcontractor, agent, employee, parent entity, subsidiary, or affiliate of the Party. If either Party receives notice of the assertion of any claim with respect to which indemnification is to be sought from the other Party, that Party shall give prompt notice thereof to the other Party. The Parties shall cooperate in the mutual defense of any such claim.

(f) Adjusted Indemnity. If the Buyer and the Seller are both determined to have been negligent parties or to have engaged in willful misconduct in a manner addressed by subpart (e) hereof, the obligations to indemnify of the Seller and the Buyer shall be appropriately adjusted based on the percentage of the responsibility of each Party for such loss or indemnification event.

(g) Insurance. The Seller shall insure the Facility for comprehensive general liability and

property damage, and "all-risk" peril, from a recognized insurance provider lawfully permitted to provide insurance in The United Republic of Tanzania, with primary limits of liability at all times during the duration of the AGREEMENT equal to not less than the replacement value of the Facility.

ARTICLE 8: DISPUTE RESOLUTION

The parties acknowledge that a dispute may arise between the Parties regarding the applicability, interpretation, payment, or enforcement of this AGREEMENT. If any dispute arises among the Parties related to this AGREEMENT, the Party claiming the dispute shall notify the other Party and the Authority in writing of the dispute, and the Parties shall attempt informally to settle such dispute in good faith within a period of sixty (60) days thereafter. After such sixty (60) day informal effort, the Parties may engage in the dispute resolution procedures provided in part (a) and (b) of this section, or seek any other remedy at law or equity. This dispute resolution mechanism is not applicable to disputes of a Party with third parties not directly arising under this AGREEMENT.

(a) Appeal to the Authority. If within sixty (60) days of notification a dispute is not resolved to the mutual satisfaction of the Parties, subject to an election being made pursuant to Article 8(b), any Party may appeal in writing after such sixty (60) day period but before eighty (80) days from such initial notification of a dispute, to the Authority to mediate and resolve the dispute. The Parties shall abide by and act in accordance with the Authority's written decision resolving such dispute pending a final legal appeal of such resolution.

(b) Binding External Arbitration. In lieu of the option in Article 8(a), if within sixty (60) days of the initial notification, after such sixty (60) day period but before eighty (80) days from such initial notification of a dispute, the Seller (only) may elect to refer such dispute under this AGREEMENT to a proceeding for binding arbitration to be conducted at an agreed location, or if the Parties can not agree on a mutually agreeable location, in Dar es Salaam. Any such arbitration proceeding shall be conducted by a neutral arbitrator selected by the Parties. If the Parties cannot mutually agree on a neutral arbitrator, each Party shall appoint a single arbitrator trained in arbitration and not related to any Parties, to the financial interests of either Party, nor to the dispute, and these two arbitrators shall mutually agree on a third neutral arbitrator. The Seller, in electing to select binding external arbitration under this provision in lieu of the dispute resolution provision under Article 8(a), shall be responsible to reimburse the reasonable travel and per diem expenses of the Buyer to participate in this arbitration, if it is held outside of The United Republic of Tanzania. Once the Seller elects in writing as provided herein, with notice to the other Party and the Authority, to refer any dispute to binding arbitration, the decision of the arbitrator(s) shall be final and binding on the Parties without further resort for any Party to judicial or other remedies, provided however, that if binding arbitration has not reached a final decision within three-hundred sixty (360) days of the mutual referral of the dispute to binding arbitration, and such failure is not due to the lack of cooperation of a given Party, that Party may

without penalty or forfeiture of any legal or equitable rights hereunder withdraw from such arbitration and seek other remedies at law or at equity consistent with this AGREEMENT, including within twenty (20) days of such withdrawal either Party may invoke the dispute resolution provisions of Article 8(a).

ARTICLE 9: DELEGATION AND ASSIGNMENT; RESTRUCTURING

(a) Assignment; Delegation. This AGREEMENT shall inure to the benefit of and bind the respective successors, assigns, and delegates of the Parties. No assignment or delegation by the Seller of any of its rights, duties, or obligations hereunder shall be made or become effective without the prior written consent of the Buyer and the Authority in each case being obtained, which consent shall not be unreasonably withheld by the Buyer or its successors in interest, except that without the Buyer consent the Seller may (1) assign and/or delegate some or all of its rights and duties to an affiliate whose principal functions are to hold the ownership interest in or to operate the Facility, or (2) assign and/or delegate some or all of its rights and duties to Lenders for purposes of financing, obtaining equipment, or construction of the Facility. A Party shall notify promptly the other Party in writing of any assignment or delegation that it makes.

(b) Restructuring. The plans of the government are to transition the electric power sector to a more competitive electricity market, which could involve the unbundling, restructuring, and/or reorganization (such actions collectively referred to as “Restructuring” of the “Restructured” power market) of the functions of the Buyer and cause its rights and/or obligations under this AGREEMENT to be transferred to successor entity(ies). The Buyer represents and warrants that as part of any such Restructuring, it will cause any successor(s) assuming any or all of its transmission and distribution functions to fully assume in writing the power transmission obligations of the Buyer under this AGREEMENT, and cause any successor(s) assuming any or all of its power supply or power purchase obligations to fully assume in writing such power supply or purchase obligations of the Buyer under this AGREEMENT.

(c) Opt-Out Election. If and after Restructuring is implemented during the term of this AGREEMENT, and if allowed by the law, the Seller shall have the election, but not the obligation, by notice as provided herein to the Buyer and the Authority, at any time up until five (5) years prior to the termination date of this AGREEMENT as specified herein, to unilaterally opt-out of and avoid this AGREEMENT, but only for the purpose of participating in the Restructured power market.

ARTICLE 10: REPRESENTATIONS AND WARRANTIES

In addition to the provisions of Article 9, each Party represents and warrants to the other

that:

- (a) it is legally established to do business in The United Republic of Tanzania;
- (b) the execution and performance of this AGREEMENT is duly authorized as required by its enabling authority or its by-laws, and does not conflict with any law, rules, regulations or requirements affecting or binding that Party;
- (c) there is no legal or administrative action pending that prohibits or impairs the Party from performing under the AGREEMENT or might materially and adversely affect the Party's ability to perform its obligations under this AGREEMENT;
- (d) this AGREEMENT constitutes a valid, legal and binding obligation of the Party in accordance with the terms hereof;
- (e) the execution, delivery and performance by the Party of this AGREEMENT will not contravene any provision of, or constitute a material default under, any other agreement or instrument to which it is a party or by which it is bound

ARTICLE 11: MISCELLANEOUS

- (a) Modification. This AGREEMENT may not be modified or amended except in writing signed on behalf of both Parties by their duly authorized officers and approved by the Authority.
- (b) Cooperation. It shall be the Seller's obligation to take all necessary actions to satisfy all applicable legal requirements regarding the Facility.
- (c) Entire and Complete Agreement. This AGREEMENT constitutes the entire and complete final agreement between the Parties relating to the subject matter hereof, and all previous agreements, discussions, communications and correspondences with respect to the subject matter hereof are superseded by the execution of this AGREEMENT.
- (d) Choice of Law. The interpretation and performance of this AGREEMENT shall be in accordance with and controlled by the laws of The United Republic of Tanzania.
- (e) Waivers. There shall be no implied waivers under this AGREEMENT. The failure of either Party to require compliance with any provision of this AGREEMENT at any time shall not affect that Party's right to later enforce same. It is agreed that the express waiver by either Party of performance of any of the covenants or conditions of this AGREEMENT, or any breach thereof, shall not be held or deemed to be an implied waiver by that Party of any subsequent failure to perform the same or any other term or

condition of this AGREEMENT, or any breach thereof.

(f) Severability. If any clause of this AGREEMENT is ruled invalid or unenforceable by a court of competent jurisdiction, it shall not affect the remainder of the AGREEMENT if it can be construed to effect its essential purpose without the invalid clause.

(g) No Interpretation of Headings. The headings in this AGREEMENT are descriptive only, and are not intended to affect the interpretation or meaning of the AGREEMENT, and accordingly are not meant to be construed as part of obligations of any Party hereunder.

(h) Notice. Any notice, invoice, or other communication which is required or permitted by this AGREEMENT, except as otherwise provided herein, shall clearly specify that it relates to this AGREEMENT, bearing the date of its creation, be in writing and delivered by personal service, electronic transmission with proof of receipt and reading, or telecopy, with a subsequent copy mailed postage prepaid, properly addressed, as follows:

(1) In the case of the Seller to the person, company, and address as indicated on the signature execution line below;

(2) In the case of the Buyer to: General Manager, , _____, , Tanzania.

(3) Another address or addressee for notice, including designation of Lenders, may be specified or substituted by a Party in the manner provided herein.

(4) Each notice, invoice or other communication which shall be mailed, delivered or transmitted in the manner described above shall be deemed sufficiently given and received for all purposes at such time as it is delivered to the addressee or at such time as delivery is refused by the addressee upon presentation.

(5) Whenever a notice or other communication is required hereunder to be provided by the Buyer to the Seller, a copy of each such notice shall be provided to Lenders, if any, by similar mode of transmission at the address provided in writing to the Buyer by the Seller.

IN WITNESS WHEREOF the Parties have executed this AGREEMENT

as of the ____ day of the month of _____, 20__, each signatory duly authorized by its respective entity to enter freely this AGREEMENT and to be bound by the terms and conditions contained herein.

BUYER

SELLER

By: _____ By: _____
(authorized signature) (authorized signature)

Print Name: _____ Print Name: _____

Title: _____ Title: _____

_____ Seller's Name: _____

Fax: _____

Address: _____

Email: _____

Fax: _____

Email: _____

The above-signed individual appeared personally before me, and having proven his/her identity by proper documentation, averred and stated that the execution of the above Agreement was his/her free act and deed

The above-signed individual appeared personally before me, and having proven his/her identity by proper documentation, averred and stated that the execution of the above Agreement was his/her free act and deed

Notarized: _____

Notarized: _____

Commission No.: _____

Commission No. _____

Date: _____

Date: _____

APPENDIX A

TARIFFS FOR DELIVERY OF THE BUYERS ENTITLEMENT

The tariff payable shall be based on the avoided long-run marginal costs of Buyer, as approved and announced by the Regulator applicable to each calendar year of the AGREEMENT. The tariff is seasonally differentiated and is adjusted annually within the limits of a minimum and maximum price.

Year of execution of the AGREEMENT: **2009: Base Tariff – 96.11TZS/kWh**

Seasonally adjusted standardised tariff payable for power delivered to Buyer in 2009, the year of execution of the AGREEMENT	Dry season	August through November	115.33 TZS/kWh
	Wet season	January through July and December	86.50 TZS/kWh

Minimum Price (the Floor Price): The applicable tariff during the Term of the Agreement shall not be less than the tariff payable in the year of execution of the AGREEMENT, as set forth above. If for any calendar year, the tariff payable announced by the Regulator is lower than the tariff in the year of execution of the AGREEMENT stated above, the tariff payable shall be the tariff announced by the Regulator in the year of execution of the AGREEMENT stated above.

Maximum Price (the Price Cap): The annually applicable tariff during the Term of the Agreement shall not exceed 1.5 times the tariff payable in the year of execution of the AGREEMENT. This maximum price shall be adjusted by the five-year moving average change of the Tanzania Consumer Price Index. The Regulator shall announce for each calendar year, the rate at which the Maximum Price stated in the AGREEMENT should be escalated.

Example: Dry season tariff of an AGREEMENT executed in year 2009

Minimum (Floor) price = price stated in the SPPA 115.33 TZS/kWh
 Maximum price (Price Cap) = 1.5 x price stated in the SPPA 1.5 x 115.33 = 173.00 TZS/kWh

Tariffs are stated in TZS/kWh

Year	Tariff Announced for the year	Five Year Moving Average Change of Tanzania Consumer Price Index announced by the Regulator	Adjusted Maximum Price (Adjusted Price Cap)	Observation	Tariff Payable	Tariff Payable to Seller
2010	108.72	6.00%	$173.00 \times 1.06 = 183.37$	Tariff announced is between Floor and Adjusted Cap	Tariff announced	108.72
2011	220.13	5.00%	$183.37 \times 1.05 = 192.54$	Tariff announced is above the Cap	Adjusted Cap	192.54
2012	173.55	4.00%	$192.54 \times 1.04 = 200.25$	Tariff announced is between Floor and Adjusted Cap	Tariff announced	173.55
2013	125.28	7.00%	$200.25 \times 1.07 = 214.26$	Tariff announced is between Floor and Adjusted Cap	Tariff announced	125.28
2014	90.98	5.00%	$214.26 \times 1.05 = 224.98$	Tariff announced is below the Floor	Floor price	115.33

APPENDIX B
DESCRIPTION OF SELLER'S FACILITY

NAME OF FACILITY: [_____]

LOCATION OF FACILITY:[_____]

RIVER/HOST FACILITY (if applicable):[_____]

EXACT DELIVERY POINT (feeder, pole or switch number):[_____]

LOCATION OF METERING (meter number):[_____]

NOMINAL CONNECTION VOLTAGE:[_____]

RANGE OF VOLTAGE REGULATION: [_____]ONLINE; [_____]OFFLINE

TYPE OF FUEL:[_____];TYPICAL HEATING VALUE OF FUEL:[_____]

TYPE OF POWER GENERATION TECHNOLOGY:[_____]

NAMEPLATE CAPACITY RATING:[_____]kW

DEPENDABLE CAPACITY TO SELL: MIN[_____]kW; MAX[_____]kW

CAPACITY CONSUMED BY SELLER: MIN[_____]kW; MAX[_____]kW

CAPACITY FACTOR:[_____]. EXPECTED ANNUAL PRODUCTION:[_____]kWh

BUYER ENTITLEMENT (kWh or % of output):[_____]

RAMP RATE:[_____]MW/MINUTE UP; [_____]MW/MINUTE DOWN

MINIMUM RUN TIME:[_____]HOURS; MINIMUM SHUT-DOWN TIME:[_____]HOURS

START-UP TIME:[_____]HOURS

DATE OF PLANNED COMPLETED CONSTRUCTION OF FACILITY:[_____]

VOLTAGE DELIVERED TO THE BUYER:[_____]VOLTS

APPENDIX C

GRID INTERCONNECTION REQUIREMENTS

1. The relevant requirements stated in “Guidelines for Grid Interconnection of Small Power Projects in Tanzania (Parts A, B and C)” shall be applicable.
2. The delivery voltage at the Point of Supply shall be [____ kV ± ____%]
3. Special Requirements and Conditions:[TO BE PROVIDED INDIVIDUALLY FOR EACH FACILITY DEPENDING ON PROJECT CHARACTERISTICS AND TECHNOLOGIES]
4. The operating Power Factor of the Facility at the Delivery Point (Point of Supply) shall be [_____].
5. Interconnection Arrangement
[This will be a single-line diagram of the Interconnection similar to Figure A2 of the “Guidelines for Grid Interconnection of Small Power Projects in Tanzania: Part A”. The diagram shall show the generators, switchgear, transformers, protection systems and transmission lines, their capacity, rating, voltage levels, and identify the Point of Supply (POS) and Point of Common Coupling (PCC). A sample diagram is given on the next page.]

[SAMPLE ONLY, to be replaced with the agreed arrangement]

Interconnection Arrangement

